

Message Text

UNCLASSIFIED

PAGE 01 CANBER 05783 280955Z

11

ACTION EB-07

INFO OCT-01 EA-09 IO-10 ISO-00 FEA-01 AGR-10 CEA-01

CIAE-00 COME-00 DODE-00 FRB-01 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-02 AID-05 CIEP-02 SS-15

STR-04 TAR-01 TRSE-00 USIA-15 PRS-01 SP-02 OMB-01

/114 W

----- 114658

P R 280709Z AUG 75

FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC PRIORITY 6473

INFO USMISSION GENEVA

AMCONSUL SYDNEY

UNCLAS CANBERRA 5783

GENEVA FOR GATT DEL
SYDNEY FOR PERCIVAL.

EO 11652: NA.

TAGS: ETRD, GATT, AS

SUBJECT: AUSTRALIAN AIDE-MEMOIRE PROTESTING U.S. COUNTERVAILING
DUTIES ON BUTTER.

REF: (A) STATE 202014.

(B) CANBERRA 6445

(C) STATE 200492.

1. AS FORESHADOWED REF (C), FOGARTY, FIRST ASSISTANT
SECRETARY, DEPARTMENT OF OVERSEAS TRADE, AUGUST 28 CALLED
IN E/C COUNSELOR TO PRESENT AIDE-MEMOIRE PROTESTING
PROPOSED U.S. COUNTERVAILING DUTIES ON BUTTER. AIDE-MEMOIRE
CONTENDS PROPOSED U.S. ACTION INFRINGES GATT ARTICLE I,
THAT AUSTRALIAN BUTTER EQUALIZATION SCHEME SPECIFICALLY
COVERED BY GATT ARTICLES VI AND XVI, AND REQUESTS FORMAL
CONSULTATION PRIOR ANY U.S. ACTION TO IMPOSE COUNTERVAILING
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 CANBER 05783 280955Z

DUTIES. IF USG UNABLE DEFER ACTION PENDING SUCH CONSULTATIONS,

GOA INTENDS TO SEEK CONSULTATIONS UNDER GATT ARTICLE XXII.

2. THIS TELEGRAM CONTAINS EXT OF AIDE-MEMOIRE. FOLLOWING
TEL CONTAINS DETAILS
OF DISCUSSION AND EMBASSY COMMENT.

3. TEXT OF AIDE-MEMOIRE:

QTE THE AUSTRALIAN EMBASSY IN WASHINGTON HAS INDICATED
THAT IT IS THE INTENTION OF THE UNITED STATES TREASURY
TO COLLECT WHAT IT DESCRIBES AS A COUNTERVAILING DUTY
IN RESPECT OF A SHIPMENT OF SOME 800 TONS OF AUSTRALIAN
BUTTER IMPORTED INTO THE UNITED STATES IN 1973.

QTE IT WOULD BE A MATTER OF DEEP CONCERN TO THE AUSTRALIAN
GOVERNMENT IF THIS INTENTION WERE PROCEEDED WITH, SINCE IT
WOULD APPEAR TO CONSTITUTE THE APPLICATION OF A DISCRIMINATORY
DUTY AGAINST AUSTRALIA.

QTE THE MATTER OF COUNTERVAILING DUTIES IN RESPECT OF
AUSTRALIA'S EQUALISATION MEASURES FOR BUTTER HAS BEEN THE
SUBJECT OF EXTENDED DISCUSSIONS BETWEEN THE AUSTRALIAN
EMBASSY, WASHINGTON AND US OFFICIALS. IN THESE DISCUSSIONS
THE AUSTRALIAN SIDE HAS CONSISTENTLY MAINTAINED THAT OUR
EQUALISATION MEASURES DO NOT CONSTITUTE SUBSIDY. ACCORDINGLY,
WE DO NOT ACCEPT THE UNITED STATES VIEW THAT THESE
EQUALISATION ARRANGEMENTS GIVE RISE TO THE NEED TO APPLY
COUNTERVAILING DUTIES UNDER UNITED STATES LAW.

QTE AUSTRALIA'S CONCERN IN RESPECT OF THE ACTIONS WHICH,
NOTWITHSTANDING ITS ARGUMENTS, ARE STILL BEING CONTEMPLATED
BY THE UNITED STATES, IS WITH AUSTRALIA'S RIGHTS AND THE
UNITED STATES' OBLIGATION UNDER THE GATT. THIS CONCERN IS
ESSENTIALLY TWO-FOLD AND RELATES TO THE PRINCIPLES OF
EVEN-HANDED TREATMENT UNDER ARTICLE I OF THE GATT AND WHETHER
OUR EQUALISATION ARRANGEMENTS IN RESPECT OF BUTTER SHOULD
RESULT IN THESE EXPORTS BEING SUBJECT TO THE IMPOSITION OF
COUNTERVAILING DUTIES BY THE UNITED STATES, BEARING IN
MIND THE PROVISIONS OF ARTICLES VI AND XVI OF THE GATT.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 CANBER 05783 280955Z

QTE ARTICLE I(1) OF THE GATT IS EXPLICITLY CLEAR AS TO
THE RIGHTS AND OBLIGATIONS OF ALL CONTRACTING PARTIES IN
RESPECT OF THE EVEN-HANDED APPLICATION OF MOST FAVOURED
NATION TREATMENT.

QTE IF, CONTRARY TO AUSTRALIA'S CONTENTIONS, OUR
STABILISATION ARRANGMENTS ARE REGARDED BY THE UNITED
STATES AS CONSTITUTING A SUBSIDY, IT IS ABUNDANTLY CLEAR

THAT IN GATT TERMS, MEASURES APPLIED BY MOST, IF NOT ALL, OTHER SUPPLIERS OF BUTTER TO THE US MARKET (WHETHER UNDER PRESIDENTIAL PROCLAMATION NO. 4253 OR 31 OCTOBER 1973, OR OTHERWISE), MUST BE SIMILARLY REGARDED. IF, THEREFORE, THE UNITED STATES DOES NOT PROPOSE TO LEVY AGAINST OTHER SUPPLIERS WHAT IT DESCRIBES AS COUNTERVAILING DUTIES, AUSTRALIA WOULD BE UNABLE TO ACCEPT THE DESCRIPTION INNER QUOTE COUNTERVAILING DUTIES END INNER QUOTE AS IT IS BEING APPLIED TO THE IMPORTS FROM AUSTRALIA. WE WOULD REGARD THE DUTY AS AN ADDITIONAL AND DISCRIMINATORY TARIFF IMPOST APPLIED AGAINST AUSTRALIA, IN BREACH OF ARTICLE I OF THE GATT. ALTERNATIVELY, WE WOULD REGARD THE APPLICATION BY THE UNITED STATES OF ITS LAW IN THIS MATTER AS BEING DISCRIMINATORY AND IN BREACH OF ARTICLE I OF THE GATT.

QTE ACCORINGLY, WE REQUEST ADVICE FROM THE UNITED STATES WHETHER IT PLANS TO COLLECT COUNTERVAILING DUTIES FROM THE OTHER SUPPLIERS, TO ENABLE AUSTRALIA TO CONSIDER ITS POSITION WITH RESPECT TO THE NEED TO HAVE THE MATTER DELIBERATED UPON BY THE GATT CONTRACTING PARTIES.

QTE BECAUSE IT REGARDS THE PRINCIPLES INVOLVED IN THE ISSUES RAISED AS OF GREAT IMPORTANCE TO ITS EXPORT TRADE, THE AUSTRALIAN GOVERNMENT ASKS THE UNITED STATES GOVERNMENT TO ENTER INTO FORMAL CONSULTATIONS ON THE BILATERAL ISSUES AND UNDERSTANDINGS INVOLVED BEFORE ANY ACTION IS TAKEN TO COLLECT THE DUTIES.

QTE SHOULD THE UNITED STATES GOVERNMENT FEEL UNABLE TO WITHHOLD ACTION PENDING SUCH CONSULTATIONS, THE AUSTRALIAN GOVERNMENT INTENDS TO SEEK FORMAL CONSULTATIONS WITH THE US UNDER ARTICLE XXII OF GATT. END QTE.
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 CANBER 05783 280955Z

PERCIVAL

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXT, AIDE MEMOIRE, DIPLOMATIC PROTESTS, COUNTERVAILING DUTIES, BUTTER
Control Number: n/a
Copy: SINGLE
Draft Date: 28 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975CANBER05783
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750297-1192
From: CANBERRA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975086/aaaaafbg.tel
Line Count: 155
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 STATE 202014
Review Action: RELEASED, APPROVED
Review Authority: hartledg
Review Comment: n/a
Review Content Flags:
Review Date: 02 JAN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 JAN 2003 by ReddocGW>; APPROVED <23 JAN 2004 by hartledg>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: AUSTRALIAN AIDE-MEMOIRE PROTESTING U.S. COUNTERVAILING DUTIES ON BUTTER.
TAGS: ETRD, AS, GATT
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006